Remarks

Claims 1-22 are pending.

Claim 22 was amended to essentially include the limitations of former Claim 31.

Claim 22 was also amended to recite communicating a signature from the "component" to the server, in order to be consistent with the limitations from former Claim 31. See original Claim 22 (reciting "communicating a signature from said component or said portable fob to said server"), which recital has already been considered by the Examiner.

Hence, it is submitted that Claim 22 now requires only a cursory review by the examiner. See MPEP § 714.13.

Claims 23-31 were canceled, without prejudice.

Response to Examiner's Response to Arguments

The Examiner takes the apparent position (Office Action, page 3) that recitals "'adapted to' or 'adapted for' performing a function is not a positive limitation" and "does not constitute a limitation in any patentable sense." The Examiner relies upon *In re Hutchinson*, 69 USPQ 138 (CCPA 1946).

It is respectfully submitted that the Examiner's *per se* rule is in error. This is shown, for example, by the Manual of Patent Examining Procedure (MPEP):

> The following are examples of language that ***may raise a question*** as to the limiting effect of the language in a claim:
>
> (A) statements of intended use or field of use,
>
> (B) "adapted to" or "adapted for" clauses,
>
> (C) "wherein" clauses, or
>
> (D) "whereby" clauses.

MPEP § 2106 (***emphasis added***). Clearly, the language of the MPEP that certain language ***may raise a question*** as to the limiting effect of language in a claim, does not correspond to the Examiner's position that Applicants' recitals are "not a positive limitation" and do "not constitute a limitation in any patentable sense."

Also, the Examiner takes the position (Office Action, page 2), that Applicants' recitals pertain to "intended use of the claimed invention". However, it is quite clear that Applicants' claims never recite "use" or "for use" and, thus, cannot fall within a statement "of intended use or field of use". Hence, it is submitted that inquiries regarding whether references being "capable of performing the intended use" are clearly not relevant to Applicants' claim recitals.

Furthermore, as to recitals including "adapted to" or "adapted for", the MPEP provides the following guidance:

> Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure. However, examples of claim language, although not exhaustive, that ***may raise a question*** as to the limiting effect of the language in a claim are:
>
> (A) "adapted to" or "adapted for" clauses;
>
> (B) "wherein" clauses; and
>
> (C) "whereby" clauses.
>
> The determination of whether each of these clauses is a limitation in a claim ***depends on the specific facts of the case***.

MPEP § 2111.04 (***emphasis added***). Clearly, the language of the MPEP that certain language ***may raise a question*** as to the limiting effect of language in a claim or that it ***depends on the specific facts of the case***, also does not correspond to the Examiner's *per se* position that Applicants' recitals are "not a positive limitation" and do "not constitute a limitation in any patentable sense." It is respectfully submitted that the Examiner has not considered these points.

Here, an appropriate inquiry is whether the claim language "limit[s] a claim to a particular structure".

Finally, as to the Examiner's reliance upon *In re Hutchinson*, 69 USPQ at 140, which dealt with a claim 42 ("adapted for use"), a claim 43 ("adapted for use" in the introductory clause)[1] and a claim 58 ("adapted … for use"). All of those recitals that deal with intended use are clearly not relevant to Applicants' claim recitals. Although reference is made to claim 54 (a coated paper layer "adapted to be adhered to a metal backing"), a full recital of claim 54 is not provided. Since this is discussed in the same paragraph as claim 43, it is reasonable to assume that the quoted portion of claim 54 is also in the "introductory clause" and before the recital of "comprising".

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[1] A full recital of claim 43 is not provided by *In re Hutchinson*. It is submitted that the reference to "introductory clause" means that the recital of "adapted for use" is before the recital of "comprising" as is true of claim 42.

In complete contrast to the above discussion of "use" or "for use" or "adapted for use", as will be discussed, below, in connection with the rejections under Sections 103(a) and 102(b), Applicants' claim language limits the claims to a particular structure.

Furthermore, it is respectfully submitted that the Examiner's use of a *per se* rule is totally inconsistent with the guidance to review the "specific facts of the case".

Finally, as will also be discussed, below, the references are not "capable of performing" Applicants' claim recitals.

REJECTIONS UNDER 35 U.S.C. § 103(a)

The Examiner rejects Claims 1-3, 8-10, 22-26 and 28-31 on the ground of being unpatentable over U.S. Patent Application Publication No. 2004/0233855 (Gutierrez et al.) in view of U.S. Patent Application Publication No. 2004/0260407 (Wimsatt).

Gutierrez et al. discloses a "network device" (ND) that is a communicating device (*e.g.*, a portable communicating device; a fixed communicating device, such as, for example, switches, motion sensors or temperature sensors as employed in a wirelessly enabled sensor network), which participates in an ad-hoc communication network. The ND 14 includes an antenna port 82, RF front-end transceiver 84, micro-controller core 86 having ROM 88 and RAM 90, programming port 92, and sensor bus 94. The sensor bus 94 may include, for example, more or more analog-to-digital inputs, one or more digital-to-analog outputs, one or more UART ports, one or more Serial Peripheral Interface (SPI) and one or more digital I/O lines (not shown).

Wimsatt discloses a home automation and control architecture that includes one or more controlled devices and one or more control panels coupled by a communication network. Wireless networking components such as a wireless access point/router 105 and wireless control panels 107 may be employed. A "home" screen shows the normal state of a control panel 101 from which other control functionality can be reached. The home screen includes a thermostat display indicating room temperature and/or outside temperature, either of which may be measured by the control panel 101 itself, or be obtained from a remote device or other control panel 101. Any control panel 101/107 (or PC 129) may send a control message relevant to any particular controlled device. Each control panel 101/107 is aware of controlled devices and subsystems that it can directly access, and implement a message broker process that listens for control messages relevant to those devices/subsystems. The message broker is able to generate command and control messages directed to any other control panel 101/107 as well as respond to command and control messages from other control panels 101/107. The message broker server processes interpret the command messages and generate appropriate device-specific signaling to implement a command on the controlled device or subsystem. Similarly, status signals from controlled devices are interpreted and the message broker process generates network-compatible control messages that are distributed to the control panels 101/107. When a control panel 101 is coupled to a controlled device or subsystem, it interrogates that device or subsystem to learn details of the control interface of that particular system.

Claim 1 recites, *inter alia*, a system comprising: a plurality of sensors, each of the sensors including a first wireless port and a second port; a server including a wireless port; and a portable fob comprising: a portable housing; a first wireless port wirelessly communicating with the wireless port of the server; a second port adapted for communication with the second port of one of the sensors when the second port of the portable fob engages or is proximate to the second port of such one of the sensors; and a processor operatively associated with the first wireless port of the portable fob and the second port of the portable fob, the processor being adapted to receive engagement or proximity information from the second port of the portable fob, the processor being adapted to select sensor information responsive to a user input device, the sensor information describing such one of the sensors, the processor being adapted to send the sensor information to the wireless port of the server from the first wireless port of the portable fob.

The Examiner states (Office Action, page 5) that the programming ports 92 (Figures 7 and 8 of Gutierrez et al.) of the ND 14 and the NC 24 "would need to be connected to each other by engaging physically or be in proximity with one another".

It is respectfully submitted that the Examiner reaches this conclusion by the use of hindsight which is improper.

Furthermore, the Examiner points to no teaching or suggestion in Gutierrez et al. to support this conclusion.

Indeed, even if such programming ports 92 might be somehow connected to each other, although this is not admitted, the Examiner points to no teaching or suggestion in Gutierrez et al. regarding a processor being adapted to receive engagement or proximity information from such recited second port of a portable fob.[2]

"[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness". *See In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed Cir. 2006).

A reasonable, common sense interpretation of the micro-controller core 86 and programming port 92 of Gutierrez et al. is that when a programming device (not shown) is electrically connected to the programming port 92, it writes programming information to ROM 88. This, however, does not teach or suggest a processor of a portable fob being adapted to receive ***engagement or proximity*** information from a second port of such portable fob.

It is submitted that the only disclosure in Gutierrez et al. regarding the programming ports 92 (Figures 7 and 8) is that the "micro-controller core 86 ha[s a] … programming port 92". Through common sense, at best, one might infer that a programming device (not shown) would be structured to program the micro-controller core 86 of either the ND 14 and the NC 24 through the programming port 92, which is structured to communicate with the programming device. However, there is clearly no teaching or suggestion in Gutierrez et al. that any such programming ports 92 could be connected to each other and, much less, that such programming ports 92 would be connected to each other by being engaged physically or being in proximity with one another. Indeed, the preponderance of the evidence clearly supports Applicants' common sense position, which is supported by rational underpinnings.

Therefore, Gutierrez et al. does not teach or suggest plural sensors each including a first wireless port and a second port, and a portable fob comprising a first wireless port and a ***second port adapted for communication with*** such ***second port of one of*** such ***sensors when*** such ***second port of*** such ***portable fob engages or is proximate to*** such ***second port of*** such ***one of*** such ***sensors***.

Wimsatt adds nothing to Gutierrez et al. in this regard.

This claim recital limits Claim 1 to a particular structure in which a portable fob comprises a second port adapted for communication with a second port of a sensor when such second port of such portable fob engages or is proximate to such second port of such sensor.

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[2] The Examiner's inherency argument is dealt with, below.

Furthermore, a port that is adapted for communication with a programming device does not teach or suggest this structure. The programming ports 92 of Gutierrez et al., which separately communicate with only a programming device (not shown), are clearly not "capable of performing" communication with each other. This is clearly true, as shown in Figures 7 and 8 of Gutierrez et al., where such ports clearly do not communicate with each other. Furthermore, even if such ports might somehow be engaged or be proximate to one another, although this is not admitted, it is respectfully submitted that the Examiner can point to no teaching or suggestion that they could or would communicate with each other. Instead, they communicate with a programming device (not shown).

The Examiner also states (Office Action, pages 5 and 6) that "since the programming port, read as second port is operatively associated with the microcontroller, read as processor, and therefore a detection of engagement would be inherently sensed by a processor". This statement is respectfully traversed.

A reasonable, common sense interpretation of the micro-controller core 86 and programming port 92 is that when a programming device (not shown) is electrically connected to the programming port 92, it writes programming information to ROM 88.

As to the Examiner's inherency argument, "[t]o establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and this it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" *In re Robertson*, 169 F.3d 643, 745 (Fed. Cir. 1999).

It is respectfully submitted that the Examiner has not made clear that any detection of engagement (or proximity) sensed by a processor is necessarily present in the programming port 92 of Gutierrez et al. and that this would be so recognized by persons of ordinary skill.

Therefore, for any of the above reasons, Claim 1 patentably distinguishes over the references.

Claims 2-3 and 8-10 depend either directly or indirectly from Claim 1 and patentably distinguish over the references for at least the same reasons.

Furthermore, Claim 2 recites that the second port of the portable fob temporarily or momentarily ***mates*** with the second port of such one of the sensors.

The Examiner states that "it would be a trivial task to use the available programming ports to connect them together". It is respectfully submitted that the Examiner reaches this conclusion by the use of hindsight which is improper.

Furthermore, the Examiner points to no teaching or suggestion in Gutierrez et al. to support this conclusion.

Moreover, it is respectfully submitted that the Examiner's position is repugnant to the disclosure of Gutierrez et al.. It is submitted that the only disclosure in Gutierrez et al. regarding the programming ports 92 (Figures 7 and 8) is that the "micro-controller core 86 ha[s a] … programming port 92". Through common sense, at best, one might infer that a programming device (not shown) would be structured to program the micro-controller core 86 of either the ND 14 and the NC 24 through the programming port 92, which is structured to communicate with the programming device. As such, the programming ports 92 do not communicate with each other and, thus, are not connected together (as stated by the Examiner) or mated (temporarily or momentarily ***mates***) as made expressly clear by the refined recital of Claim 2.

Although the Examiner argues, without support, that the programming ports 92 would "allow the transfer of data for the purpose of programming and uploading/downloading information", the preponderance of the evidence is that any such programming requires a separate programming device (not shown) to program the ROM 88. It is clear, then that nothing in the references or common sense supports the Examiner's position that the programming ports 92 would temporarily or momentarily mate with one another.

Wimsatt adds nothing to Gutierrez et al. in this regard. Therefore, Claim 2 further patentably distinguishes over the references.

Furthermore, Claim 3 recites that the second port of the portable fob includes a contact, which closes when the second port of the portable fob temporarily or momentarily mates with the second port of such one of the sensors.

The Examiner admits (Office Action, page 7) that Gutierrez et al. does not teach or suggest the recited contact of Claim 3.

The Examiner states that "it would be inherent in the art for the contacts to close in order to make the connection and communication between the two devices operable." It is respectfully submitted that the Examiner reaches this conclusion by the use of hindsight which is improper.

Furthermore, the Examiner points to no teaching or suggestion in Gutierrez et al. to support this conclusion. Through common sense, at best, one might infer that a programming device (not shown) electrically communicates through the programming port 92. No such "contact" is taught or suggested by that electrical structure.

As to the Examiner's inherency argument, it is respectfully submitted that the Examiner has not made clear that any contact is necessarily present in the programming port 92 of Gutierrez et al. and that this would be so recognized by persons of ordinary skill.

Wimsatt adds nothing to Gutierrez et al. in this regard. Therefore, Claim 3 further patentably distinguishes over the references.

Furthermore, Claim 8 recites that the server further includes a second port; and that the second port of the portable fob temporarily or momentarily mates with the second port of the server. Claim 8 further patentably distinguishes over the references for similar reasons as were discussed above in connection with Claim 2.

Furthermore, Claim 9 recites that the second port of the portable fob includes a contact, which closes when the second port of the portable fob temporarily or momentarily mates with the second port of the server. Claim 9 further patentably distinguishes over the references for similar reasons as were discussed above in connection with Claim 3.

Furthermore, Claim 10 recites that the portable fob and the server cooperate to configure at least one of the portable fob and the server after the second port of the portable fob temporarily or momentarily mates with the second port of the server.

As was discussed above in connection with Claim 2, the programming ports 92 of Gutierrez et al. do not communicate with each other and, thus, are not connected together as was argued by the Examiner. Hence, it cannot be said that Gutierrez et al. teaches or suggest that a second port of a portable fob temporarily or momentarily ***mates*** with a second port of a server. The programming ports 92 of Gutierrez et al. do not communicate with each other and, thus, are not connected together (as stated by the Examiner) or mated (temporarily or momentarily ***mates***) as made expressly clear by the refined recital of Claim 10.

Furthermore, it necessarily follows that there can be no teaching or suggestion in Gutierrez et al. that a portable fob and a server cooperate to configure at least one of such portable fob and such server after a second port of a portable fob temporarily or momentarily mates with a second port of such server.

Wimsatt adds nothing to Gutierrez et al. in this regard. Therefore, Claim 10 further patentably distinguishes over the references.

Claim 22 in an independent method claim that, as amended, recites, *inter alia*, a method of configuring a component of a system comprising: employing a portable fob; detecting engagement or proximity information by the portable fob responsive to engaging the portable fob with or placing the portable fob proximate the component or the server; responsive to such detected engagement or proximity information, communicating a signature from the component to the server in order to configure the component or the portable fob, respectively, as part of the system for a structure; displaying a confirmation at the portable fob that the component or the portable fob was configured, employing a sensor as the component; communicating the signature from the sensor to the server responsive to engaging the portable fob with or placing the portable fob proximate the sensor; communicating a message from the portable fob to the server responsive to engaging the portable fob with or placing the portable fob proximate the sensor; and receiving both of the signature and the message at the server before configuring the sensor as part of the system for a structure.

Claim 22 recites communicating the signature from a sensor to the server responsive to engaging the portable fob with or placing the portable fob proximate the sensor; communicating a message from the portable fob to the server responsive to engaging the portable fob with or placing the portable fob proximate the sensor; and receiving both of the signature and the message at the server before configuring the sensor as part of the system for a structure.

The Examiner admits that Gutierrez et al. does not teach or suggest this refined recital. The Examiner relies (Office Action, page 15), instead, on paragraphs 22, 29, 31, 37, 38 and 46 of Wimsatt.

There is no teaching or suggestion in the references of receiving ***both*** of the recited ***signature*** (from a sensor to a server responsive to engaging a portable fob with or placing such portable fob proximate such sensor) **and** the recited ***message*** (from a portable fob to a server responsive to engaging such portable fob with or placing such portable fob proximate such sensor) at a server ***before*** configuring such ***sensor as part of a system***.

While the Examiner reads (Office Action, page 10, first paragraph) the "controlled device or subsystem" being "'armed" as being "configured", it is respectfully submitted that this has nothing to do with configuring a sensor as part of a system. The only place that Gutierrez et al. refers to "armed" (Figure 4E) or "disarmed" (Figures 4A-4D) is in connection with Figures 4A-4E ("The home screen also includes a display of the security system status, which in FIG. 4A is not armed.") This security system status does not pertain to a ***sensor***, and much less to configuring a sensor ***as part of a system***.

The Examiner also states (Office Action, page 15, first paragraph) that Gutierrez et al. discloses "programming and controlling the controlled devices (read as sensors) (see figs. 1; 4A-4E)". It is submitted that this does not teach or suggest the refined recital of configuring a sensor ***as part of a system***. It is submitted that Figure 1 and the corresponding disclosure do not teach or suggest how a sensor might be configured ***as part of a system***. Figures 4A-4E, which deal with "armed" (Figure 4E) or "disarmed" (Figures 4A-4D) security system status, has been dealt with, above.

As to receiving a signature (from a sensor to a server responsive to engaging a portable fob with or placing such portable fob proximate such sensor) the Examiner refers to communicating "control" messages amongst the "control panels (107)". It is submitted that these are not related to configuring a sensor ***as part of a system***.

As to receiving a message (from a portable fob to a server responsive to engaging such portable fob with or placing such portable fob proximate such sensor) the Examiner refers (¶22 of the Gutierrez et al.) to "communicating status and maintenance information". However, paragraph 22 of the Gutierrez et al. states that "[s]tatus information typically relates to current operational state of a controlled device, maintenance status of the controlled device, and the like." Such status information, current operational state and/or maintenance status has nothing to do with configuring a sensor, much less with configuring a sensor as part of a system.

Finally, as to "receiving both of said signature and said message at said server before configuring said sensor as part of said system", the Examiner refers (Office Action, page 15) to the "graphical user interface of the control panel (107) (read as portable fob and server) disclose[s] programming and controlling the controlled devices (read as sensors) (see figs. 1; 4A - 4E)." As was discussed above, it is submitted that this does not teach or suggest the refined recital of ***configuring*** a sensor ***as part of a system***. Figure 1 and the corresponding disclosure do not teach or suggest how a sensor might be configured ***as part of a system***. Figures 4A-4E, which deal with "armed" (Figure 4E) or "disarmed" (Figures 4A-4D) security system status, has been dealt with, above.

Here, as to the refined recital of receiving ***both*** of the recited signature and the recited message at a server before configuring a sensor as part of a system, it is respectfully submitted that the Examiner has not provided the requisite articulated reasoning with rational underpinnings to support the legal conclusion of obviousness.

Therefore, for the above reasons, Claim 22 patentably distinguishes over the references.

The Examiner rejects Claims 4-7 and 11 on the ground of being unpatentable over Gutierrez et al. in view of Wimsatt and further in view of U.S. Patent Application Publication No. 2004/0093239 (Ott et al.).

Ott et al. discloses a sensor 116 that senses a parameter of a patient's body and stores data corresponding to the sensed parameter as patient medical data. The sensor 116 records the patient medical data recorded by the sensor 116 and stores the patient medical data in a local storage mechanism (not shown). The sensor 116 is equipped with a communication interface configured to download or transmit the stored patient medical data from the sensor 116 to the remote computer 112 via a data transfer system 118 that is compatible with the communication interface of the remote computer 112. For example, the communication interface may be a Universal Serial Bus (USB) interface that is commonly found on a personal computer. In such an arrangement, the remote computer 112 includes a USB interface such that the sensor 116 transfers the patient medical data from its USB interface over the data transfer system 118 to the USB interface of the remote computer 112. The data transfer system 118 may be any type for transferring data such as a serial interface, a parallel interface, a local area network interface, an infrared interface, an optical interface, or other hard-wired or wireless interface.

Claims 4-7 and 11 depend either directly or indirectly from Claim 1 and patentably distinguish over the references for at least the same reasons. Ott et al. adds nothing to Gutierrez et al. and Wimsatt regarding plural sensors each including a first wireless port and a second port, and a portable fob comprising a first wireless port and a second port adapted for communication with such second port of one of such sensors when such second port of such portable fob engages or is proximate to such second port of such one of such sensors; or regarding a processor being adapted to receive engagement or proximity information from a second port of a portable fob to render Claim 1 unpatentable.

Furthermore, Claim 4 recites that the second port of such one of the sensors includes a contact, which closes when the second port of the portable fob temporarily or momentarily mates with the second port of such one of the sensors; and that the wireless port of such one of the sensors sends a signature to the wireless port of the server responsive to closure of the contact of such one of the sensors. The Examiner admits that Gutierrez et al. and Wimsatt do not teach or suggest this recital.

The Examiner concludes (Office Action, page 16), without support, that the USB interface of Ott et al. is "read as second port of said sensor includes a contact, which closes when the second port of said portable fob temporarily or momentarily mates with the second port of said one of said sensors".

Nothing in Ott et al. (*e.g.*, cited paragraphs 24-27 thereof) teaches or suggests a second port of a sensor including a ***contact***, which ***closes*** when a second port of a portable fob temporarily or momentarily mates with a second port of a sensor. In fact, Ott et al. uses the word "contact" one time in an entirely different context. At paragraph 21 of the reference it is stated that "a system 100 for handling the acquisition and analysis of patient medical data and patient information over a network is illustrated. Patient information is specific data such as name, address, contact information, patient medical history, medical care provider information, and medical insurance data associated with a patient 128." Clearly, this has absolutely nothing to do with a sensor including a contact, which closes.

Here, as to the USB of Ott et al. being "read as second port of said sensor includ[ing] a contact", and/or the USB connection being made to a remote computer 112 being "read as sensors send a signature to the wireless port of said server responsive to closure of the contact", it is respectfully submitted that the Examiner has not provided the requisite articulated reasoning with rational underpinnings to support the legal conclusion of obviousness.

Therefore, for the above reasons, Claim 4 further patentably distinguishes over the references.

Furthermore, Claim 11 recites, *inter alia*, that the processor of the portable fob is adapted to send selected information from the first wireless port of the portable fob to the wireless port of the server after the second port of the portable fob is mated with the second port of one of the sensors; and that such one of the sensors sends a signature from the first wireless port of such one of the sensors to the wireless port of the server after the second port of the portable fob is mated with the second port of such one of the sensors. The Examiner admits that Gutierrez et al. and Wimsatt do not teach or suggest this recital.

Ott et al., which discloses that a sensor 116 transfers patient medical data over a data transfer system 118 to a remote computer 112, and which discloses that the remote computer 112 transmits the stored patient medical data over a communication network 110 to a central server 102, adds nothing to Gutierrez et al. and Wimsatt regarding a processor of a portable fob being adapted to send ***selected*** information from a first wireless port of such portable fob to a wireless port of a server after a second port of such portable fob is mated with a second port of a sensor, in combination with such sensor sending a signature from a first ***wireless*** port of such sensor to such ***wireless*** port of such ***server after*** the second port of the portable fob is ***mated*** with the second port of such one of the sensors. Accordingly, Claim 11 further patentably distinguishes over the references.

The Examiner rejects Claims 13, 14 and 18 on the ground of being unpatentable over Gutierrez et al..

Claims 13, 14 and 18 depend either directly or indirectly from Claim 12 and patentably distinguish over the reference for at least the same reasons[3].

Furthermore, Claim 13 recites that the second port of the portable fob is adapted for temporary or momentary mating with a corresponding port of such one of the sensors or the server. Claim 13 further patentably distinguishes over the reference for similar reasons as were discussed above in connection with Claims 2 and 8.

Furthermore, Claim 14 recites that the second port of the portable fob includes a contact, which closes when the second port of the portable fob temporarily or momentarily mates with the corresponding port of such one of the sensors or the server. Claim 14 further patentably distinguishes over the reference for similar reasons as were discussed above in connection with Claims 3 and 9.

Claim 18 is not separately asserted to be patentable except in combination with Claim 12 from which it depends.

The Examiner rejects Claim 15 on the ground of being unpatentable over Gutierrez et al. in view of U.S. Patent No. 4,926,505 (Higuchi et al.).

Higuchi et al. discloses that when the user of a toilet leaves the seat body 11, his motion is detected by a seating detection means 96, and that it is possible to use an infrared sensor, a micro-switch or a limit switch, or a load cell for detecting the load of seating of the user as the seating detection means 96.

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[3] Claim 12 is discussed, below, in connection with the rejections under Section 102(b).

Higuchi et al. adds nothing to Gutierrez et al. regarding a second port of a portable fob being adapted for communication with a sensor or a server when such second port engages or is proximate to such sensor or such server, respectively, or regarding a processor of a portable fob being adapted to receive engagement or proximity information from a second port of such portable fob and responsively communicate with a server through a first wireless port, in order to configure a sensor or server to render Claim 12[4] unpatentable.

Claim 15 depends from Claim 13 (and Claim 12) and patentably distinguishes over the references for at least the same reasons. Claim 15 is not separately asserted to be patentable except in combination with Claim 13 (and Claim 12) from which it depends.

The Examiner rejects Claim 17 on the ground of being unpatentable over Gutierrez et al. in view of Ott et al..

Ott et al. adds nothing to Gutierrez et al. regarding a second port of a portable fob being adapted for communication with a sensor or a server when such second port engages or is proximate to such sensor or such server, respectively, or regarding a processor of a portable fob being adapted to receive engagement or proximity information from a second port of such portable fob and responsively communicate with a server through a first wireless port, in order to configure a sensor or server to render Claim 12[5] unpatentable.

Claim 17 depends from Claim 12 and patentably distinguishes over the references for at least the same reasons. Claim 17 is not separately asserted to be patentable except in combination with Claim 12 from which it depends.

The Examiner rejects Claims 19-21 on the ground of being unpatentable over Gutierrez et al. in view of U.S. Patent No. 5,221,457 (North et al.).

North et al. discloses a sensor unit 50, that when fully inserted, a bar 70 (Figure 6) on the sensor unit 50 contacts and depresses microswitch actuator 118 mounted in an elastomeric membrane 119 (Figure 8). The depression of the microswitch actuator 118 signals analyzer instrument circuitry that the sensor unit 50 is fully inserted.

North et al. adds nothing to Gutierrez et al. regarding a second port of a portable fob being adapted for communication with a sensor or a server when such second port engages or is proximate to such sensor or such server, respectively, or regarding a processor of a portable fob being adapted to receive engagement or proximity information from a second port of such portable fob and responsively communicate with a server through a first wireless port, in order to configure a sensor or server to render Claim 12[6] unpatentable.

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[4] See footnote 3.

[5] See footnote 3.

Claims 19-21 depend either directly or indirectly from Claim 12 and patentably distinguish over the references for at least the same reasons. Claims 19-21 are not separately asserted to be patentable except in combination with Claim 12 from which they directly or indirectly depend.

REJECTIONS UNDER 35 U.S.C. § 102(b)

The Examiner rejects Claims 12 and 16 on the ground of being anticipated by Gutierrez et al..

Claim 12 recites, *inter alia*, a portable fob for a plurality of sensors and a server comprising: a portable housing; a first wireless port adapted for wireless communication with the server; a second port adapted for communication with one of the sensors or the server when the second port engages or is proximate to one of the sensors or the server, respectively; and a processor operatively associated with the first wireless port, the second port, a user input device and a display, the processor being adapted to receive engagement or proximity information from the second port and responsively communicate with the server through the first wireless port, in order to configure such one of the sensors or the server.

The Examiner states (Office Action, page 25) that the programming port 92 of Gutierrez et al. is "read as second port; see fig. 7". This statement is respectfully traversed as applied to the refined recital of Claim 12.

Gutierrez et al., which discloses a programming port 92 that is structured to communicate with a programming device (not shown), which does not teach or suggest that any such programming ports 92 of a ND 14 or NC 24 could be connected to each other and, much less, that such programming ports 92 would be connected to each other by being engaged physically or being in proximity with one another, does not teach or suggest a second port of a portable fob being adapted for communication with a sensor or a server ***when*** such ***second port engages or is proximate to*** such ***sensor*** or such ***server***, respectively.

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[6] See footnote 3.

This claim recital limits Claim 12 to a particular structure in which a portable fob comprises a second port adapted for communication with a sensor or server when such second port engages or is proximate to one of such sensor or server.

A reasonable, common sense interpretation of the micro-controller core 86 and programming port 92 of Gutierrez et al. is that when a programming device (not shown) is electrically connected to the programming port 92, it writes programming information to ROM 88. This, however, does not teach or suggest a processor of a portable fob being adapted to receive ***engagement or proximity*** information from a second port of such portable fob, much less to ***responsively*** communicate with a server through a first wireless port, in order to configure a sensor or server.

This claim recital limits Claim 12 to a particular structure in which a portable fob comprises a processor adapted to receive engagement or proximity information from a second port and responsively communicate with a server through a first wireless port, in order to configure a sensor or such server.

Therefore, for either or both of the above reasons, Claim 12 patentably distinguishes over Gutierrez et al..

Claim 16 depends from Claim 12 and patentably distinguishes over the reference for at least the same reasons. Furthermore. Claim 16 recites that such one of the sensors or the server includes a port; and that the second port of the portable fob is adapted to physically mate with the port of such one of the sensors or the server. Claim 16 further patentably distinguishes over the reference for similar reasons as discussed above in connection with Claims 2 and 8.

Reconsideration and early allowance are requested.

Respectfully submitted,

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